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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,510	11/13/2003	Sandra Lynn True	LUTZ 2 00237	8919
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FAY SHARPE/LUCENT 1100 SUPERIOR AVE SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER TAYLOR, BARRY W	
			ART UNIT	PAPER NUMBER
			2617	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,510

Applicant(s)

TRUE ET AL.

Examiner

Barry W. Taylor

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14 and 16 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/18/04
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-4, 7-8, 10-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckart et al (6,606,377 hereinafter Ruckart) in view of Dahm et al (6,301,471 hereinafter Dahm).

Regarding claim 1. Ruckart teaches a method for a wireless communications network to automatically suggest subscriber service changes (title, abstract) comprising:

compiling a record of services used by the subscriber during a time period (see abstract, col. 1 lines 45-50, col. 2 line 33 - col. 3 line 4, col. 6 line 6 - col. 7 line 61 wherein wireline and wireless services are analyzed during a given period);

determining a subscriber usage metric for the time period (see col. 6 line 24 - col. 7 line 61 wherein the calling plan engine used to analyze information from the period billing record to determine a subscriber's usage pattern);

detecting a trigger condition (see col. 6 line 24 – col. 7 line 61 wherein subscriber's usage pattern is compared to different calling plans to offer subscribers a full range of choices for decreasing the subscriber's cost for telecommunications services when the subscriber's usage pattern meets or exceeds a prescribed threshold);

generating a service change suggestion (see abstract, col. 1 lines 45-50, col. 1 line 62 – col. 2 line 3, col. 2 line 25 – col. 3 line 4, col. 6 line 24 - col. 7 line 61 wherein subscriber's are notified of alternative calling plans); and informing the subscriber of the service change suggestion via the wireless communications network.

Ruckart does not appear to teach informing the subscriber of the service change suggestion via wireless communications network. However, Ruckart teaches the automated system notifies subscriber's via written correspondence, electronic correspondence, or telephonic correspondence (col. 7 lines 53-66).

Dahm also uses subscriber billing records (col. 2 lines 33-65, col. 7 line 65 - col. 8 line 12, col. 8 lines 55-67, col. 10 lines 13-29, col. 12 lines 7-23) to determine whether or not to offer subscriber's incentives or new service plans when the subscriber's usage patterns exceeds threshold values (see col. 2 lines 33-65, col. 10 line 66 – col. 11 line 19, figures 6A - 6L --- col. 13 line 27 – col. 15 line 24 wherein special calling plans (i.e. 10 cents per minute) and special services (i.e. voice mail, call forwarding, etc) are

offered to subscribers). Dahm also discloses sending electronic correspondence via SMS (see dependent claim 19).

It would have been obvious for any one of ordinary skill in the art at the time of invention to use Short Message Service as taught by Dahm into the teachings of Ruckart in order to offer special calling plans to subscribers when subscribers usage pattern exceeds a threshold, as well as, allowing service provider's the ability to send special service offers to customers to discourage churning as taught by Dahm.

Regarding claim 2. Ruckart teaches comparing the subscriber usage metric to a threshold, wherein the trigger condition includes the usage metric exceeding the threshold and the service change is capable of eliminating the trigger condition (see abstract, col. 1 lines 45-50, col. 1 line 62 – col. 2 line 3, col. 2 line 25 – col. 3 line 4, col. 6 line 24 - col. 7 line 61 wherein subscriber's are automatically notified of alternative calling plans).

Regarding claim 3. Ruckart teaches wherein the threshold is a usage allotment derived from the subscriber's service package and the trigger condition is an overage (see col. 6 line 24 – col. 7 line 61 wherein subscriber's usage pattern is compared to different calling plans to offer subscribers a full range of choices for decreasing the subscriber's cost for telecommunications services when the subscriber's usage pattern meets or exceeds a prescribed threshold).

Regarding claim 4. Ruckart teaches repeating the step of compiling a record of services, the step of determining a subscriber usage metric and the step of comparing the subscriber usage metric to a threshold for several time periods, wherein the trigger

condition includes a trend of the usage metric exceeding the threshold for a plurality of the time periods (see col. 7 lines 15-35 wherein different time periods (i.e. month, year, and the like) are used to determine different cost savings for subscriber's).

Regarding claim 7. Ruckart teaches repeating the step of compiling a record of services and the step of determining a subscriber usage metric for several time periods, wherein the trigger condition includes a predetermined increase in the usage metric over the several time periods (see col. 7 lines 15-35 wherein different time periods (i.e. month, year, and the like) are used to determine different cost savings for subscriber's).

Regarding claim 8. Dahm teaches wherein the informing step comprises: generating an SMS message informing of the service change suggestion; and sending the SMS message to the subscriber via the wireless communications network (see dependent claim 19).

Regarding claim 10. Ruckart teaches wherein the time period is a billing cycle (col. 4 lines 65-67, col. 6 lines 6-9).

Regarding claim 11. Ruckart teaches time period is a month (col. 6 lines 6-9).

Regarding claims 12-13. Ruckart teaches peak and off-peak hours (col. 7 lines 35-52).

Regarding claim 14. Ruckart teaches processing both data and calls (col. 4 line 48).

Regarding claim 16. Ruckart teaches a method for a wireless communications network to automatically suggest subscriber service changes comprising:

compiling a record of services used by the subscriber during several billing cycles (see abstract, col. 1 lines 45-50, col. 2 line 33 - col. 3 line 4, col. 6 line 6 - col. 7 line 61 wherein wireline and wireless services are analyzed during a given period (i.e. billing cycle --- col. 4 lines 65-67 and col. 6 lines 6-9);

determining a subscriber usage metric for the several billing cycles (see col. 6 line 24 - col. 7 line 61 wherein the calling plan engine used to analyze information from the period billing record to determine a subscriber's usage pattern);

detecting a trigger condition (see col. 6 line 24 – col. 7 line 61 wherein subscriber's usage pattern is compared to different calling plans to offer subscribers a full range of choices for decreasing the subscriber's cost for telecommunications services when the subscriber's usage pattern meets or exceeds a prescribed threshold);

generating a service change suggestion (see abstract, col. 1 lines 45-50, col. 1 line 62 – col. 2 line 3, col. 2 line 25 – col. 3 line 4, col. 6 line 24 - col. 7 line 61 wherein subscriber's are notified of alternative calling plans); and informing the subscriber of the service change suggestion via the wireless communications network.

Ruckart does not appear to teach informing the subscriber of the service change suggestion via wireless communications network. However, Ruckart teaches the automated system notifies subscriber's via written correspondence, electronic correspondence, or telephonic correspondence (col. 7 lines 53-66).

Dahm also uses subscriber billing records (col. 2 lines 33-65, col. 7 line 65 - col. 8 line 12, col. 8 lines 55-67, col. 10 lines 13-29, col. 12 lines 7-23) to determine whether or not to offer subscriber's incentives or new service plans when the subscriber's usage

patterns exceeds threshold values (see col. 2 lines 33-65, col. 10 line 66 – col. 11 line 19, figures 6A - 6L --- col. 13 line 27 – col. 15 line 24 wherein special calling plans (i.e. 10 cents per minute) and special services (i.e. voice mail, call forwarding, etc) are offered to subscribers). Dahm also discloses sending electronic correspondence via SMS (see dependent claim 19).

It would have been obvious for any one of ordinary skill in the art at the time of invention to use Short Message Service as taught by Dahm into the teachings of Ruckart in order to offer special calling plans to subscribers when subscribers usage pattern exceeds a threshold, as well as, allowing service provider's the ability to send special service offers to customers to discourage churning as taught by Dahm.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckart et al (6,606,377 hereinafter Ruckart) in view of Dahm et al (6,301,471 hereinafter Dahm) further in view of Jagadish et al (6,125,173 hereinafter Jagadish).

Regarding claim 9. Ruckart in view of Dahm do not teach sending an automated voicemail message to the subscriber via the wireless communications network.

Jagadish teaches sending voice message to subscribers to inform them of current plan savings (title, abstract, col. 4 lines 48-55).

It would have been obvious for any one of ordinary skill in the art at the time of invention to incorporate the voice message unit as taught by Jagadish into the teachings of Ruckart and Dahm in order to offer subscriber's special calling plans via voice message.

Allowable Subject Matter

3. Claims 5-6 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Thursday, 6:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost, can be reached at (571) 272-7872. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number **(571-273-8300)**.

Barry W. Taylor
Art Unit 2617

 12/19/07

**BARRY TAYLOR
PRIMARY EXAMINER**